

ESTTA Tracking number: **ESTTA712557**

Filing date: **12/04/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Endo Pharmaceuticals, Inc.
Granted to Date of previous extension	01/13/2016
Address	1400 Atwater Drive Malvern, PA 19355 UNITED STATES

Attorney information	Camille M. Miller Cozen O'Connor One Liberty Place1650 Market Street Philadelphia, PA 19103 UNITED STATES cmiller@cozen.com Phone:215-665-7273
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Applicant Information

Application No	86600248	Publication date	09/15/2015
Opposition Filing Date	12/04/2015	Opposition Period Ends	01/13/2016
Applicant	ENDO MEDICAL (USA) INTERNATIONAL TRADE CO., LTD 245 E MAIN STREET, SUITE 115 ALHAMBRA, CA 91801 UNITED STATES		

Goods/Services Affected by Opposition

Class 010. First Use: 2014/11/11 First Use In Commerce: 2014/11/11


All goods and services in the class are opposed, namely: Apparatus for blood analysis; Apparatus for cardiac defibrillation; Biopsy instruments; Blood testing apparatus; Cardiac electrodes; Cooling apparatus used for medical and surgical equipment used during medical and surgical procedures; CT scanner component, namely, integral component of the image chain of a CT scanner for capturing X-rays and converting them to information that creates the image; Diagnostic apparatus for the detection of cancer; Electric bone operating machines; Electric scalpels; Electro-surgical motors being part of surgical and medical apparatus and instruments for use in general surgery; Electrodes for medical use; Endoscopic equipment; Heat lamps for medical use; Instrument and apparatus systems for medical diagnostic uses consisting of flow cytometers, hematology analyzers, sample preparation device, and related data management software sold as a unit; Knives for medical use; Knives for surgical purposes; Medical and dental apparatus for dimensional measurement, namely, 3D scanner for human body; Medical and surgical apparatus and instruments, namely, devices used in orthopedic surgery to position surgical instruments, implants and/or patients' limbs; Medical and surgical apparatus and instruments, namely, orthopedic fixation device used in orthopedic transplant and/or implant surgery; Medical and surgical cutters for cutting human or animal tissue and organs; Medical and surgical laparoscopes; Medical apparatus and instrument for diagnostic use, namely, apparatus for medical diagnostic testing in the fields of cancer or other tissue-based diagnostic testing, cytology and cell-based

testing; Medical apparatus and instruments for use in orthopedic surgery; Medical apparatus and instruments for use in positron emission tomography (PET) imaging; Medical apparatus and instruments for use in positron emission tomography (PET) imaging used to monitor brain, heart and metabolic functions; Medical apparatus and instruments for use in surgery; Medical apparatus, namely, a spinal fusion device; Medical apparatus, namely, marking pens for use in surgical procedures; Medical device and surgical instrument for use in diagnosis and surgery of the gastro-intestinal tract; Medical devices and apparatus, namely, ultrasound imaging apparatus, scanners and needle guides, and parts and fittings therefor; Medical devices for obtaining body fluid samples; Medical devices, namely, infusion pumps for delivering measured amounts of solutions into the bloodstream over time; Medical devices, namely, surgical devices that facilitate the identification, separation or ablation of biologic tissues; Medical diagnostic apparatus for detecting cancer; Medical diagnostic apparatus, analytical apparatus for medical purposes and blood pressure measuring apparatus; Medical diagnostic instruments for the analysis of body fluids; Medical electrodes; Medical examination lamps; Medical imaging apparatus; Medical instruments for cutting tissue; Medical instruments, namely, orthopedic apparatus and instruments; Medical operating lamps; Medical ultrasound apparatus; MRI diagnostic apparatus; Operating room apparel; Orthopedic apparatus and instruments for diagnostic and therapeutic use; Orthopedic devices for diagnostic and therapeutic use; Surgical amputators; Surgical and medical apparatus and instruments for use in general surgery; Surgical and medical apparatus and instruments for use in orthopedic surgery; Surgical apparatus and instruments for use in orthopedic surgery; Surgical headlights; Surgical instruments and apparatus; Surgical instruments for use in orthopedic and spinal surgery; Surgical knives; Surgical lamps; Surgical mirrors; Surgical operating lamps; Surgical saws; Ultrasonic medical diagnostic apparatus; Ultrasound diagnostic apparatus; UV lamps for medical applications; Vacuum pumps for medical purposes

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	324936	Application Date	01/22/1935
Registration Date	06/04/1935	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1916/06/01 First Use In Commerce: 1916/06/01 TABLETS FOR THE RELIEF OF PAIN		

U.S. Registration No.	2004648	Application Date	12/01/1993
Registration Date	10/01/1996	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1994/05/19 First Use In Commerce: 1994/05/19		

	house mark for a [full] line of pharmaceutical preparations *, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations *
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U.S. Registration No.	2189503	Application Date	02/10/1998
Registration Date	09/15/1998	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 1994/05/19 First Use In Commerce: 1994/05/19 house mark for a [full] line of pharmaceutical preparations *, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations *		

U.S. Registration No.	2921176	Application Date	09/25/2002
Registration Date	01/25/2005	Foreign Priority Date	NONE
Word Mark	ENDO		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 005. First use: First Use: 2002/12/00 First Use In Commerce: 2002/12/00 [full] line of pharmaceutical preparations *, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders		

	sof the endocrine system, hormone replacement preparations *		
U.S. Registration No.	4653200	Application Date	12/19/2011
Registration Date	12/09/2014	Foreign Priority Date	NONE
Word Mark	E ENDO		
Design Mark			
Description of Mark	The mark consists of the literal element of the mark "ENDO" shown in grey in lower case font. To the left of the literal element is the logo form of the letter "E" shown in two shades of yellow in lower case font.		
Goods/Services	<p>Class 005. First use: First Use: 2012/03/00 First Use In Commerce: 2012/03/00 A line of pharmaceutical preparations, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations</p> <p>Class 041. First use: First Use: 2012/03/00 First Use In Commerce: 2012/03/00 Educational services, namely, conducting classes, seminars, and workshops in the field of medical devices and techniques, none of the foregoing primarily in the field of endocrinology or used to identify the name of or used in connection with any conferences, conventions, exhibitions or expositions</p> <p>Class 044. First use: First Use: 2012/03/00 First Use In Commerce: 2012/03/00 Providing online information on the subjects of pharmaceutical preparations, medical devices and techniques, none of the foregoing primarily in the field of endocrinology or used to identify the name of or used in connection with any conferences, conventions, exhibitions or expositions</p>		
Attachments	71360540#TMSN.png(bytes) 75431737#TMSN.png(bytes) 76453299#TMSN.png(bytes) 85498455#TMSN.png(bytes) ENDO_Notice_of_Opposition.pdf(134779 bytes) ENDO_Notice_of_Opposition_Exhibit_A.pdf(750445 bytes)		

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Camille M. Miller/
Name	Camille M. Miller
Date	12/04/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Endo Pharmaceuticals Inc.,	:	
	:	Opposition No.
Opposer,	:	
	:	U.S. Trademark Appl. No. 86/600248
v.	:	
	:	Filed: April 16, 2015
Endo Medical (USA) International Trade	:	
Co. Ltd	:	
	:	Published: September 15, 2015
Applicant.	:	
<hr/>		Mark: ENDO+ME

USPTO-TTAB
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Endo Pharmaceuticals Inc., a Delaware corporation located and doing business at 1400 Atwater Drive, Malvern, PA 19355 ("Endo") believes it will be damaged by the registration of the above identified mark (hereinafter "Applicant's mark"), and hereby opposes the same.

The grounds for the opposition are as follows:

1. Endo is a global specialty healthcare solutions company, focused on high-value branded pharmaceutical preparations and specialty generic pharmaceutical preparations. In addition, Endo delivers an innovative suite of complementary diagnostics, drugs, devices and clinical data to meet the needs of patients in areas such as pain, urology, oncology and endocrinology.

2. Endo's predecessor first used the ENDO® trademark for pain relief tablets almost one hundred years ago, beginning in 1916. *See* RN 0324936. Since that time, the ENDO®

name and mark have developed invaluable good will and reputation among health care providers and patients as a designator of source for prescription pharmaceutical preparations and related goods and services. Such good will, together with the registrations symbolizing such good will, are now owned by Endo.

3. Endo uses its ENDO® name and mark as a house mark to identify its broad range of pharmaceutical and healthcare goods and services. *See, e.g.*, RN 0324936 and RN 2004648.

4. Endo owns RN 0324936, RN 2004648, RN 2189503, RN 2921176, RN 4653200 and RN 4605917 for ENDO® in connection with its house mark for a full line of pharmaceutical preparations, namely, analgesics and pain management preparations, preparations for the treatment of cancers, preparations for the treatment of urological diseases and disorders, preparations for the treatment of schizophrenia; preparations for the treatment of diseases and disorders of the endocrine system, hormone replacement preparations in Class 5 and in connection with educational services, namely, conducting classes, seminars, and workshops in the field of medical devices and techniques, none of the foregoing primarily in the field of endocrinology or used to identify the name of or used in connection with any conferences, conventions, exhibitions or expositions in Class 41, and in connection with providing online information on the subjects of pharmaceutical preparations, medical devices and techniques, none of the foregoing primarily in the field of endocrinology or used to identify the name of or used in connection with any conferences, conventions, exhibitions or expositions in International Class 44.

5. Since its early use, Endo has also expanded its use of the ENDO® mark to include other registered trademarks using ENDO... as a prefix, including ENDOCET®, at RN

1993892, and ENDODAN® at RN 1995948 (collectively, with the aforementioned ENDO® registrations referenced in the preceding paragraph, the "ENDO® Marks") .

6. Based on its long and substantially exclusive use of ENDO® and marks beginning with ENDO for prescription pharmaceutical preparations, the ENDO® Marks have acquired and maintain distinctiveness in identifying prescription pharmaceutical preparations and related goods and services sourced from or sponsored by Endo.

7. On April 16, 2015, Applicant filed its application to register Endo+Me in connection with: “Apparatus for blood analysis; Apparatus for cardiac defibrillation; Biopsy instruments; Blood testing apparatus; Cardiac electrodes; Cooling apparatus used for medical and surgical equipment used during medical and surgical procedures; CT scanner component, namely, integral component of the image chain of a CT scanner for capturing X-rays and converting them to information that creates the image; Diagnostic apparatus for the detection of cancer; Electric bone operating machines; Electric scalpels; Electro-surgical motors being part of surgical and medical apparatus and instruments for use in general surgery; Electrodes for medical use; Endoscopic equipment; Heat lamps for medical use; Instrument and apparatus systems for medical diagnostic uses consisting of flow cytometers, hematology analyzers, sample preparation device, and related data management software sold as a unit; Knives for medical use; Knives for surgical purposes; Medical and dental apparatus for dimensional measurement, namely, 3D scanner for human body; Medical and surgical apparatus and instruments, namely, devices used in orthopedic surgery to position surgical instruments, implants and/or patients' limbs; Medical and surgical apparatus and instruments, namely, orthopedic fixation device used in orthopedic transplant and/or implant surgery; Medical and surgical cutters for cutting human or animal tissue and organs; Medical and surgical

laparoscopes; Medical apparatus and instrument for diagnostic use, namely, apparatus for medical diagnostic testing in the fields of cancer or other tissue-based diagnostic testing, cytology and cell-based testing; Medical apparatus and instruments for use in orthopedic surgery; Medical apparatus and instruments for use in positron emission tomography (PET) imaging. Medical apparatus and instruments for use in positron emission tomography (PET) imaging used to monitor brain, heart and metabolic functions; Medical apparatus and instruments for use in surgery; Medical apparatus, namely, a spinal fusion device; Medical apparatus, namely, marking pens for use in surgical procedures; Medical device and surgical instrument for use in diagnosis and surgery of the gastro-intestinal tract; Medical devices and apparatus, namely, ultrasound imaging apparatus, scanners and needle guides, and parts and fittings therefor; Medical devices for obtaining body fluid samples; Medical devices, namely, infusion pumps for delivering measured amounts of solutions into the bloodstream over time; Medical devices, namely, surgical devices that facilitate the identification, separation or ablation of biologic tissues; Medical diagnostic apparatus for detecting cancer; Medical diagnostic apparatus, analytical apparatus for medical purposes and blood pressure measuring apparatus; Medical diagnostic instruments for the analysis of body fluids; Medical electrodes; Medical examination lamps; Medical imaging apparatus; Medical instruments for cutting tissue; Medical instruments, namely, orthopedic apparatus and instruments; Medical operating lamps; Medical ultrasound apparatus; MRI diagnostic apparatus; Operating room apparel; Orthopedic apparatus and instruments for diagnostic and therapeutic use; Orthopedic devices for diagnostic and therapeutic use; Surgical amputaters; Surgical and medical apparatus and instruments for use in general surgery; Surgical and medical apparatus and instruments for use in orthopedic surgery; Surgical apparatus and instruments for use in orthopedic surgery; Surgical headlights; Surgical instruments and

apparatus; Surgical instruments for use in orthopedic and spinal surgery; Surgical knives; Surgical lamps; Surgical mirrors; Surgical operating lamps; Surgical saws. Ultrasonic medical diagnostic apparatus; Ultrasound diagnostic apparatus; UV lamps for medical applications; Vacuum pumps for medical purposes” in International Class 10.

8. Applicant’s ENDO+ME mark was published for opposition on September 15, 2015. Endo sought and obtained an extension of the opposition period until December 15, 2015.

9. On October 24, 2015, Applicant advised that it would withdraw Application No. 86600248 for ENDO+ME but has not done so. In addition, Applicant has failed to respond to follow up correspondence requesting confirmation that Application No. 86600248 for ENDO+ME has been withdrawn. *See Exhibit A.*

10. There is no issue as to priority. Endo’s rights in its ENDO® Marks long predate those of Applicant.

11. Endo’s rights in its ENDO® Marks are incontestable.

12. Applicant’s ENDO+ME mark is similar to the ENDO® Marks in sound, meaning and appearance.

13. Applicant’s goods in International Class 010 are similar to those goods on which Endo has registered and uses its ENDO® Marks.

14. Applicant’s use and registration of ENDO+ME mark for the goods of the application in International Class 010 herein opposed will likely lead to confusion, to mistake, or to deception of the public within the meaning of Section 2(d) of the Trademark Act of 1946.

15. By reason of the foregoing, Applicant’s registration of ENDO+ME for the goods of the application herein opposed would cause injury and damage to Endo.

WHEREFORE, Opposer prays that its opposition to Application Serial No. 86/600248 in International Class 010 be sustained and that the application be refused.

Respectfully submitted,

COZEN O'CONNOR



Camille M. Miller
Melanie A. Miller
J. Trevor Cloak
1900 Market Street
Philadelphia, PA 19103
Telephone: (215) 665-7273
Facsimile: (215) 665-2013
cmiller@cozen.com

Dated: December 4, 2015

Attorneys for Opposer,
Endo Pharmaceuticals Inc.

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing document was electronically mailed on December 4, 2015 to Opposer:

Endo Medical (USA) International Trade Co. Ltd.
t/a ENDO+ME
245 E. Main Street, Suite 115
Ahambra, CA 91801
aciusa@foxmail.com

Date: December 4, 2015

A handwritten signature in black ink, appearing to read "Camille M. Miller", written over a horizontal line.

Camille M. Miller
Attorney

Miller, Melanie

From: Miller, Melanie
Sent: Thursday, November 19, 2015 1:06 PM
To: julie
Cc: Miller, Camille; Miller, Melanie
Subject: ENDO5035US/376653 -- EndoMedical re Application No. 86600248 for ENDO + ME

Please **IMMEDIATELY** confirm that the below referenced application No. 86600248 has been withdrawn and that Endo Medical agrees to change its name.

Absent such confirmation on or before **NOVEMBER 20, 2015**, Endo will proceed forward and will pursue all legal remedies.

Melanie



Melanie A. Miller
Member, Intellectual Property Department | Cozen O'Connor
One Liberty Place | 1650 Market Street, Suite 2800 | Philadelphia, PA 19103
P: 215-665-2714 F: 215-701-2414
[Email](#) | [Bio](#) | [Map](#) | [cozen.com](#)

From: Miller, Melanie
Sent: Wednesday, October 28, 2015 2:22 PM
To: julie
Cc: Miller, Melanie; Miller, Camille
Subject: ENDO5035US/376653 -- EndoMedical re Application No. 86600248 for ENDO + ME

Julie:

Thank you for your email. Please confirm that Endo Medical will also be changing its business name.

In addition, please provide confirmation that the suspect application, No. 86600248, for ENDO + ME has indeed been withdrawn.

Time is of the essence.

Melanie



Melanie A. Miller
Member, Intellectual Property Department | Cozen O'Connor
One Liberty Place | 1650 Market Street | Philadelphia, PA 19103
P: 215-665-2714 F: 215-701-2414
[Email](#) | [Bio](#) | [Map](#) | [cozen.com](#)

From: julie [<mailto:aciusa@foxmail.com>]
Sent: Saturday, October 24, 2015 5:36 PM
To: Miller, Melanie
Subject: LEGAL 24413237v1 Letter to EndoMedical re Application No. 86600248 for ENDO + ME.PDF

Dear Ms. Cozen:

The applicant has decided to withdraw the application. There will be no further action taken on the application.

Sincerely

Applicant